

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

**VIRGINIA BUTLER SINGLETON,**

**Plaintiff,**

**v.**

**MICHAEL J. ASTRUE, Commissioner of  
Social Security,**

**Defendant.**

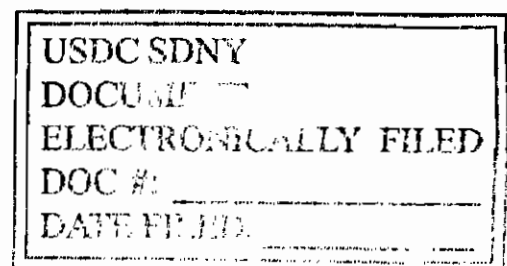
**08 Civ. 2784 (SCR)(PED)**

**ORDER ADOPTING  
REPORT AND  
RECOMMENDATION**

**STEPHEN C. ROBINSON, United States District Judge:**

Plaintiff Virginia Butler Singleton commenced this action pursuant to 42 U.S.C. § 405(g), seeking review of a final determination of the Commissioner of Social Security (“the Commissioner”) denying Plaintiff’s application for supplemental security income and disability insurance benefits on the grounds that she was not disabled during the pertinent time period. The parties filed Cross-Motions for Judgment on the Pleadings pursuant to Rule 12(c) of the Federal Rules of Civil Procedure.

This matter was referred to United States Magistrate Judge Paul E. Davison, who issued a Report and Recommendation on August 13, 2009 advising this Court to grant Plaintiff’s Motion for Judgment on the Pleadings, to deny Defendant’s Motion for Judgment on the Pleadings, and to remand the case pursuant to 42 U.S.C. § 405(g) for further administrative proceedings. The parties have not filed any objections.



## **I. BACKGROUND**

Knowledge of the facts and procedural history, as described in Part I of Judge Davison's Report and Recommendation, is assumed for purposes of this order.<sup>1</sup>

## **II. STANDARD OF REVIEW**

In reviewing a Report and Recommendation, a district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C § 636(b)(1). To accept a Report and Recommendation to which no timely objection has been made, a district court need only satisfy itself that "there is no clear error on the face of the record." *Nelson v. Smith*, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985) (citations omitted); *accord Edwards v. Fischer*, 414 F. Supp. 2d 342, 346-47 (S.D.N.Y. 2006); *see also Pizarro v. Bartlett*, 776 F. Supp. 815, 817 (S.D.N.Y. 1991) (court may accept report if it is "not facially erroneous"). As neither party has objected to Judge Davison's Report and Recommendation, this Court will review the Report and Recommendation for clear error.

## **III. DISCUSSION**

This Court has reviewed Judge Davison's comprehensive and well-reasoned Report and Recommendation and has determined that there is no clear legal error on the face of the record. Accordingly, the Court adopts Judge Davison's Report and Recommendation in its entirety. The Defendant's Motion for Judgment on the Pleadings is DENIED, the Plaintiff's Cross-Motion for Judgment on the Pleadings is GRANTED,

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<sup>1</sup> Magistrate Judge Davison states that Plaintiff filed a second application for benefits on May 21, 2003. The record reflects that Plaintiff's second application was dated July 8, 2005. *See* Pl. Mem. of Law at 2.

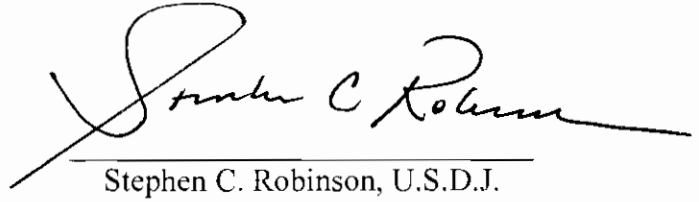
and the matter is remanded pursuant to 42 U.S.C. § 405(g) for further administrative proceedings.

The Clerk of the Court is directed to close the case.

*It is so ordered.*

Dated: White Plains, New York

April 5, 2010

  
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Stephen C. Robinson, U.S.D.J.